

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U 904G) For Authority to Revise its Rates Effective January 1, 2001, in its Biennial Cost Allocation Proceeding.

Application 01-09-024
(Filed September 21, 2001)

In the Matter of the Application of San Diego Gas & Electric Company (902G) For Authority to Revise its Gas Rates Effective January 1, 2003, in its Biennial Cost Allocation Proceeding.

Application 01-10-005
(Filed October 5, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING
TURN'S NOTICE OF INTENT TO CLAIM COMPENSATION**

This ruling responds to a notice of intent (NOI) to claim compensation filed by The Utility Reform Network (TURN) on January 3, 2002, in the above referenced proceedings. No party filed a response. This ruling addresses the requirements of the Pub.Util. Code, Division 1, Part 1, Chapter 9, Article 5, and § 1804.¹

Under § 1804 (a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” The prehearing conference (PHC) in this proceeding was held on December 4, 2001. TURN's NOI is timely filed.

¹ All statutory references are to the Public Utilities Code.

Section 1804 (a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is a participant representing consumers, a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. Once the applicable definition of customer is identified, the correct standards of “significant financial hardship” can be applied.

Customer Status

TURN is a non-profit consumer advocacy group, organized in 1973, to represent the interests of residential and small commercial customers of California’s utility companies regulated by the Commission. D.98-04-059 requires groups such as TURN to include in their NOI’s a copy of the authorization in their articles of incorporation to represent residential customers, or to provide a reference to a previous filing. TURN previously included a copy of the relevant portions of its articles of incorporation, which authorizes TURN’s representation of the interests of residential customers, in its NOI in Application (A.) 98-02-017, and again in A.99-12-024. The articles of incorporation have not changed since the time of those earlier submissions. D.98-04-059 also requires TURN to provide the percentage of how many of its customers are residential ratepayers. TURN has in excess of 30,000 dues-paying members, a majority of whom it believes are residential customers. TURN does not poll members to determine the breakdown between residential and small business, so TURN is unable to provide a precise percentage.

Financial Hardship

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. For a group or organization, § 1802(g) defines financial hardship as a state in which “the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.” TURN’s members are small residential customers whose individual interests in this proceeding are small relative to the costs of participation and the cost of TURN’s participation in Commission proceedings substantially outweighs the benefit to any individual customer it represents.

Section 1804(b)(1) states in part:

“A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.”

TURN received a finding of significant financial hardship in a ruling issued by Administrative Law Judge (ALJ) Robert Barnett in A.00-09-002, dated December 29, 2000. At the time that Application was initiated, TURN was operating under a similar ruling ALJ Barnett had issued in A.99-10-023 on January 7, 2000. This present proceeding commenced within one year of the date of both of those findings, so the rebuttable presumption applies in this case. A finding of significant financial hardship in no way, however, ensures compensation for TURN (Section 1804(b)(2)).

Pursuant to D. 98-04-059, an intervenor must state in their NOI how it will represent customer interests that would otherwise be underrepresented. While the Commission's Office of Ratepayer Advocates (ORA) represents all ratepayers, TURN only represents the interests of core customers. TURN will tailor its participation to ensure that its work serves to support and complement the work of other parties that share TURN's position. TURN will work to avoid any undue duplication of work by ORA, or others, whenever practicable. Participation in Commission proceedings by parties representing the full range of affected interests is important as it assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Planned Participation

This proceeding combines the Biennial Cost Allocation Proceeding (BCAP) of Southern California Gas Company, A.01-09-024, and the BCAP Application of San Diego Gas & Electric Company, A.01-10-005 for scheduling and hearing purposes. This combined BCAP proceeding is the forum for litigating cost allocation among customer classes.

Section 1804(a)(2)(A)(I) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. TURN has already actively participated in the proceeding by attending the December 4, 2001 PHC and the January 10, 2002 law and motion hearing. TURN expects to be an active party in this proceeding and intends to pursue discovery, prepare testimony, participate in any hearings

that are conducted, and submit briefs and comments as required.

Estimated Compensation Request

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. At this time, TURN estimates a total projected budget of \$133, 600 for this proceeding. TURN's proposed budget for this matter is as follows:

Attorney Hawiger	(340 hours @\$190/hour)	\$64,600
Attorney Florio	(90 hours @ \$350/hour)	\$31,500
Expert/Consultant JBS Energy		\$30,000
Estimated expenses		\$ 7,500
Total		\$133,600

This ruling does not address the merits of TURN's final compensation claim. The reasonableness of the hourly rates requested for TURN's representatives and expert witnesses will be addressed in their Request for Compensation.

IT IS RULED that:

1. The Utility Reform Network's (TURN) Notice of Intent was timely filed.
2. TURN has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it established significant financial hardship, and TURN is found eligible for compensation in this proceeding.
3. TURN is a customer as that term is defined in § 1804(b) and is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.

4. TURN fulfilled the requirements of § 1804(a)(2)(A) by providing a statement of the nature and extent of its planned participation and an itemized estimate of the compensation it expects to request.

5. A finding of eligibility in no way assures compensation.

6. Parties requesting compensation shall make every effort to reduce duplication of contribution.

Dated January 30, 2002, at San Francisco, California.

/s/ CAROL BROWN

Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding TURN'S Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated January 30, 2002, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.